Opening Statement of Ranking Member Robert C. "Bobby" Scott
Full Committee Hearing
"Compulsory Unionization through Grievance Fees: The NLRB's Assault on Right-to-Work"
June 3, 2015

Mr. Chairman, the title of today's hearing "*Compulsory Unionization through Grievance Fees: The NLRB's Assault on Right-to-Work,"* fundamentally distorts the legal issues in a pending appeal before the National Labor Relations Board. That appeal has to do with whether a union may charge a non-member a fee to process a grievance when they request the union's assistance. The NLRB has solicited amicus briefs but has not yet acted. Regardless, the case has nothing to do with so-called right-to-work laws.

I represent a District in Virginia, which is a right-to-work state and has been since 1947. That means that workers who are employed at a unionized workplace in Virginia cannot be required to pay union fees as a "condition of employment."

No matter how the NLRB rules in the grievance fee case, Virginia will remain a right-to-work state. This case has nothing to do with whether a worker must join a union or pay an agency fee as condition of employment. It is misleading to suggest that the policy issues in this case are in any way related to the inflammatory title of this hearing.

However, this hearing does highlight serious policy questions beyond the narrow issue of grievance fees, such as whether the vast majority of workers are better off with a stronger or weaker union movement. Congress passed the Taft Hartley Act in 1947—over President Truman's veto—with the intent to weaken the finances of labor unions. It allowed states to pass these right-to-work laws that allow workers to get union representation without paying for it. It authorized states to create a class of workers who can get something of real value for nothing. While some refer to these individuals as free-riders, I call them free-loaders.

Over the past 58 years, state legislators have passed so-called right-to-work laws in 25 states. Since unions have a duty of fair representation to represent members and non-members alike, the costs of representing free riders weakens unions by draining their treasury. Alternatively, it forces members to pay higher dues to cover the expenses of the free riders, which creates further disincentive to be a union member. When a grievance goes to arbitration, the cost, even if split with the employer, runs the union upwards of $5,000 a case, an expense that dues-paying members must shoulder if the grievance is brought by a non-member. Again, any discussion of right-to-work is really about whether one desires a stronger or a weaker union movement.

The economic research is clear—stronger unions are better than weaker unions for building and sustaining a middle class. Stronger unions reduce wage inequality and help ensure that the increased wealth generated by growing productivity is fairly shared with the workers. Falling union density exacerbates the troubling economic conditions we

have today in this country: stagnant wages and extreme levels of inequality in income and wealth.

Show Chart A (EPI).

Part of the reason for growing inequality in our country is due to workers' limited bargaining power to secure a fair share of the increase in productivity, which is a measure of output per worker-hour. The hourly compensation of a typical worker grew in tandem with productivity from 1948 to 1973 , as productivity grew 97 percent matched by a 91 percent increase in real hourly wages. That can be seen in the Chart on the screen.

However, since 1973 output per worker hour has soared 74 percent, while hourly compensation for the typical worker has increased only nine percent. Again, this sharp divergence can be seen on the chart. Coinciding with this divergence has been a reduction in union density.

Strong unions are needed to help close the gap between wages and productivity growth, and to reduce inequality. The International Labor Organization recently evaluated wage inequality in 32 countries. See the chart on the screen.

Show Chart B (ILO)

The ILO found that those countries with collective bargaining coverage rates under 15 percent, such as the United States and South Korea, have extremely high levels of inequality.

By contrast, countries with as much as 95 percent collective bargaining coverage, such as Belgium, Austria and Sweden, have far lower rates of inequality.

The ILO's data illustrates a remarkably consistent relationship: low levels of collective bargaining coverage are associated with high levels of inequality.

Mr. Chairman, I don't expect us to agree today on the value of strong labor unions, but reconsideration of the case law regarding grievance fees is not an overreach.

I would note that it was a Republican NLRB Chairwoman, Betty Murphy, who issued a concurring opinion in a 1976 case declaring that non-discriminatory grievance fees may well be permissible without running afoul of the National Labor Relations Act. In an opinion involving a Virginia mechanical parts manufacturer, she stated:

> *"A bargaining representative requiring payment of a reasonable fee for all employees for processing a grievance, imposed on members and non-members alike, cannot be discriminatory treatment of either group, and such a fee paid by non-members on the same basis cannot be unlawful."*

I would caution that this Committee should respect the adjudicative process that is now underway before criticizing the NLRB's decision to simply seek more input by soliciting amicus briefs.

Rather than rushing to judgment on the nuances of this case, we should allow the NLRB to deliberate and render an opinion on the merits. Briefs are not even due until mid-July. And if the NLRB issues a decision that the parties feel is unlawful, they can seek judicial review in the Court of Appeals.

I would like to thank our witnesses for being here today, particularly those who had to travel a long way, and look forward to their testimony.